

## ◆◆ MEMORANDUM ◆◆

To: Louisiana Board of Ethics  
From: Tracy K. Barker  
Re: Late Filing of Personal Financial Disclosure Statements  
Date: April 1, 2013

The following procedures are for handling waiver requests of late filed personal financial disclosure statements. These procedures will outline how the staff handles the waiver requests as well as the how the staff will come to a recommendation to the Board of Ethics of a waiver or suspension of any late fees assessed.

### **LATE FEE ASSESSMENTS:**

Tier 1: \$500 per day, no maximum  
Tier 2: \$100 per day, \$2,500 maximum  
Tier 2.1: \$50 per day, \$1,500 maximum  
Tier 3: \$50 per day, \$1,500 maximum

### **WAIVER REQUESTS:**

The staff will only consider waiver requests that are timely filed with the Board.

Rule 1207 of the Boards Rules provides that waiver requests are considered timely if they are received by the staff, in writing, within 20 days after the mailing of the assessment of the late fee.

Section 1157.2 of the Louisiana Code of Governmental Ethics provides authority for the Board's waiver of late filing fees based upon "Good Cause."

"Good Cause" is defined in §1157.2 as follows: "*any actions or circumstances which, in the considered judgment of the Board, were not within the control of the late filer and which were the direct cause of the late filing.*"

#### **A. RECOMMENDATION TO WAIVE A FINE:**

- The staff will recommend a **waiver of the entire late fee assessed** based on good cause, for those persons whose waiver request is timely filed with the Board, and the late filer has **no** other late filing with an assessed fine.

B. **RECOMMENDATION TO SUSPEND A FINE:**

- The staff will consider recommending a **suspension of the late fees** based on good cause, for those persons who have previously filed a late report, only if the following criteria are met:
  1. The waiver request is timely filed with the Board,
  2. The late filer has no more than **1** other late filing with an assessed fine,

**Tier 1:**

1. If between 1 and 80 days late, **suspend all but \$1,000.**
2. If 81 or more days late, **suspend all but \$2,000.**

**Tier 2:**

1. If between 1 and 80 days late, **suspend all but \$500.**
2. If 81 or more days late, **suspend all but \$1,000.**

**Tier 2.1:**

1. If between 1 and 80 days late, **suspend all but \$250.**
2. If 81 or more days late, **suspend all but \$500.**

**Tier 3:**

1. If between 1 and 80 days late, **suspend all but \$250.**
2. If 81 or more days late, **suspend all but \$500.**

***All suspensions are to be based upon future compliance with the Code of Governmental Ethics.***

- If the filer demonstrates material financial hardship, the staff may recommend the suspension of the entire late fee. Supporting documentation must be submitted with the waiver request.

**WAIVER RECONSIDERATION REQUESTS:**

The staff will consider *waiver reconsideration requests* that are filed with the Board if they are:

1. Filed, in writing, within 30 days of the Board denying a waiver request, and
2. Presents new facts and/or evidence regarding the late filing.

If the waiver reconsideration request presents new facts, which the staff deems to be “Good Cause” as defined in §1157.2, it will make a recommendation that the Board consider the reconsideration request.

The staff will then make a recommendation based upon its established waiver guidelines as outlined above.

#### **AUTHORITY TO RESCIND BASED ON RULE 1204C:**

Rule 1205B of the Rules of the Louisiana Board of Ethics provides that an automatic late fee shall not be assessed, or if assessed shall be rescinded by the staff, if the person required to file the report did not file the report for any of the following reasons which occurred on the due date or during the seven days prior to the date the report was due.

1. Death of a person required to file or the person regularly responsible, or a death in their immediate family, as defined by R.S. 42:1102(13);
2. Serious medical condition, in the considered judgment of the staff, which prevented the person required to file or the person regularly responsible from filing the report timely; or
3. A natural disaster, an act of God, force majeure, a catastrophe, or such other similar occurrence.

#### **OTHER REQUESTS:**

The staff will present other requests for late fee assessment relief if the filer demonstrates a material change in circumstances; serious family or health issues, for example, or a material financial hardship. Supporting documentation **shall** be submitted with the relief request.